

**REPORT TO: PLANNING AND TRANSPORTATION COMMITTEE – 30 JUNE 2003**

**REPORT ON: PROPERTY AND LAND IN DISREPAIR - STATUTORY POWERS**

**REPORT BY: DIRECTOR OF PLANNING AND TRANSPORTATION**

**REPORT NO: 439-2003**

## **1 PURPOSE OF REPORT**

- 1.1 To draw committee's attention to the statutory powers available to the council in dealing with property and land falling into a state of disrepair and to seek direction on the introduction of a zero tolerance policy.

## **2 RECOMMENDATIONS**

- 2.1 It is recommended that:
- a The Committee support a more proactive approach to dealing with property and land falling into a state of disrepair and authorise the Director of Support Services, in consultation with the Director of Finance, to take action under relevant statutory provisions within the budgets available and amend the Schemes of Delegation accordingly
  - b A Best Value working group of members and officers be established to examine the Council's response into property and land in a state of disrepair. The Best Value working group to consider current statutory powers, financial implications and streamlining of the Council's action on a more corporate basis.

## **3 FINANCIAL IMPLICATIONS**

- 3.1 There are no direct financial implications associated with this report.

## **4 LOCAL AGENDA 21 IMPLICATIONS**

- 4.1 Derelict Land and property can have an adverse impact on the amenity of adjoining neighbours and residents. A more proactive approach to tackling this issue will assist in achieving the Council's Local Agenda 21 objectives.

## **5 EQUAL OPPORTUNITIES IMPLICATIONS**

- 5.1 There are no equal opportunity implications.

## **6 BACKGROUND**

- 6.1 As in most cities, Dundee suffers from a growing problem of buildings falling into a state of disrepair due to lack of maintenance by owners. In many cases this can lead to concerns over public safety and result in the property requiring to be demolished.
- 6.2 A review of the current legislation available to the Council in dealing with properties falling into a state of disrepair has identified that there are six areas of legislation which may be applicable, these are:

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- Town and Country Planning (Scotland) Act 1997, Section 179;
  - Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Section 43; and 49;
  - Civic Government (Scotland) Act 1982, Section 87;
  - Building (Scotland) Act 1959, Section 13;
  - Road (Scotland) Act 1984, Section 93; and
  - Housing (Scotland) Act 1987, Section 108.
- 6.3 The Town and Country Planning (Scotland) Act gives powers to the council to serve an Amenity Notice, often referred to as a Wasteland Notice where it appears that the amenity of any part of their district or an adjoining district, is adversely affected by the condition of any land in their district. An amenity notice can also be applied to buildings and other structures. This legislation is enforced by officers within the Planning division.
- 6.4 The Planning (Listed Buildings and Conservation Areas) (Scotland) Act allows the Planning Authority to serve a Repairs Notice on owners of listed buildings or buildings within conservation areas, to effect repairs that are considered reasonably necessary for the proper preservation of the building. This legislation is enforced by officers within the Planning division.
- 6.5 The Civic Government (Scotland) Act gives powers to the council to service a notice on owners requiring them to rectify defects as are necessary to bring the building into a reasonable state of repair. This legislation is enforced by officers within the City Engineer's Division and Environmental and Consumer Protection department.
- 6.6 The Building (Scotland) Act gives powers to the council to serve a notice on owners requiring them to carry out works to a dangerous building in order to remove the danger. In addition where there is an immediate danger, the council may carry out necessary works to make the building safe. This legislation is enforced by officers within the City Engineer's division.
- 6.7 The Road (Scotland) Act gives powers to the roads authority to take action to remove any danger adjacent to the road. This legislation is enforced by officers within the City Engineer's division.
- 6.8 The Housing (Scotland) Act gives powers to the council to serve a repairs notice on the owners of housing which is in a serious state of disrepair. This legislation is enforced by officers within Housing department.
- 6.9 All of the above statutory instruments are used at present to a greater or lesser extent in dealing with defective, derelict and dangerous buildings as well as problem wasteland sites.
- 6.10 It is clear from the above review that the council has available sufficient powers to require owners to carry out such works to prevent property and land falling into a serious state of disrepair. The problems arise when owners refuse to carry out the actions required in any such notice. In such circumstances the onus then falls on the council to carry out the necessary works and to seek recovery of its costs from the owners. This can lead to problems of bad debt which can be increased when dealing with properties in multiple ownership.

- 6.11 To date, the council has pursued a policy of seeking to encourage owners to fulfil their obligations to maintain their land and property in a reasonable condition. In the case of housing this has been aided by the award of grants to assist with the carrying out of such repairs.
- 6.12 At present the above legislation is administered by various officers within the Planning and Transportation Department as well as officers within the Housing and Environmental and Consumer Protection departments. Liaison and coordinating meetings are held to avoid duplication of effort.
- 6.13 The above policy has met with limited success and it is considered appropriate to adopt a more proactive approach whereby a policy of zero tolerance is pursued. This would require the council to fully utilise its powers to deal with owners of defective buildings and land falling into a state of disrepair.
- 6.14 There are significant resourcing implications associated with pursuing such a policy. In the first instance additional staff would be required to identify and pursue owners failing to maintain their property. In addition, in the event that owners failed to carry out the necessary work, the council would require to fund the initial costs of having the work carried out and seek reimbursement through the council's debt recovery process. These costs would be significant although at this stage it is not possible to have these quantified.
- 6.15 It is recommended that a Best Value working group of members and officers be established to consider current statutory powers, financial implications and streamlining of the Council's action on a more corporate basis.

## **7 CONSULTATIONS**

- 7.1 The Chief Executive, Director of Finance, Director of Support Services, Director of Corporate Planning, have been consulted and are in agreement with the contents of this report.

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KL/EH

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